IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

MONDAY, THE 24TH SEPTEMBER 2007 / 2ND ASWINA 1929

LA.App..No. 613 of 2001(C)

LAR.172/1998 of PRL.SUB COURT, KOZHIKODE
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APPELLANT:

P.K.SOYADEVI, D/O.LATE P.K.KRISHNANKUTTY,
CHEVARAMBALAM P.O., KOZHIKODE.

BY ADV. SRI.C.P.MOHAMMED NIAS

RESPONDENTS:

1.THE EXECUTIVE ENGINEER, N.H.DIVISION, KOZHIKODE.

2.SPECIAL TAHSILDAR, LAND ACQUISITION NH NO.1,
KOZHIKODE.

BY GOVT.PLEADER SMT.K.R.DEEPA.

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 24/09/2007, ALONG WITH LAA NO. 1018 OF 2001 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A. Nos.613 & 1018 OF 2001

Dated 24th September, 2007.

J U D G M E N T

Kurian Joseph, J.

These are appeals filed against the judgment and decree in L.A.R.172/98 on the file of the Sub Court, Kozhikode, former at the instance of the claimant and latter at the instance of the State. The acquisition is for the purpose of Calicut byepass. There is a dispute as to whether the acquired property is situated in Chevayoor or Kottuli village. Be that as it may, the Land Acquisition Officer took note of the land which is situated 1 Km. away from the main road, as the basic land. The reference court however found that in view of the locational advantage and importance of the property, particularly the fact that the acquired property is situated 100 meters away from Kozhikode-Wayanad road on the southern side and further that it has road access and still further that the extent is only 5.71 cents, fixed the land value at Rs.20,000/- per cent. Having regard to the entire facts and circumstances discussed in detail in the judgment itself, we are of the view that the fixation at the rate of Rs.20,000/- per cent cannot be said to be on the high side.

2. In L.A.A.613/01, it is the case of the claimant that the land value for the adjacent property has been given at Rs.50,000/- per

cent. In any case, in respect of the property covered by the same notification, the very same reference court has granted land value at the rate of Rs.35,000/-, in LAR 477/97. If that be so, there is no point in discriminating the claimant. But we find that there is hardly any evidence regarding the comparability of the property before this Court with that of the property covered by LAR 477/97 or any other case. Therefore, it is only in the interests of justice that the appellant is given one more chance before the reference court to have the land value of the acquired property fixed properly. Accordingly, we set aside the judgment and decree in LAR 172/98 and remit the matter to the reference court with liberty to the parties to adduce fresh evidence. The reference shall be disposed of expeditiously. Since the appeal filed by the claimant is remanded, she shall be entitled to refund of the court fee.

KURIAN JOSEPH, JUDGE.

HARUN-UL-RASHID, JUDGE.

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KURIAN JOSEPH &

HARUN-UL-RASHID, JJ

L.A.A. Nos.613 & 1018 OF 2001

J U D G M E N T

Dated 24th September, 2007.